

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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Hyung Kim,

Plaintiff,

vs.

REPORT AND RECOMMENDATION

Sears Robuck & Co.,

Defendant.

Civ. No. 07-4771 (PJS/RLE)

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This matter came before the undersigned United States Magistrate Judge upon a routine supervision of cases filed in this Division, and upon an assignment made in accordance with Title 28 U.S.C. §636(b)(1)(B).

This matter was commenced on December 5, 2007, by the filing of a Complaint, and an Application to proceed in forma pauperis (“IFP”). See, Docket Nos. 1-2. By Order dated December 17, 2007, see, Docket No. 4, we found that the Plaintiff’s application for IFP status could not be granted, because his Complaint failed to allege any grounds for Federal Subject Matter jurisdiction, and allowed the Plaintiff to file an Amended Complaint that satisfied the pleading standards, which are set forth in the Federal Rules of Civil Procedure, within twenty (20) days of the date of that Order.

If the Plaintiff elected not to file such an Amended Complaint, then we would recommend that the Plaintiff's application for IFP status be denied, and his Complaint dismissed.

The Plaintiff has failed to abide by the terms of our Order of December 17, 2007. Since we have previously warned the Plaintiff of the potential consequences of failing to file an Amended Complaint, and to abide by the Orders of this Court, we recommend that this action be dismissed, for failure to comply with this Court's Order of December 17, 2007, and for lack of prosecution.

NOW THEREFORE, It is --

RECOMMENDED:

1. That the Plaintiff's Complaint [Docket No. 1] be dismissed for failure to comply with this Court's Order of December 17, 2007, and for lack of prosecution.
2. That the Plaintiff's Motion for Leave to Proceed In Forma Pauperis [Docket No. 2] be denied, as moot.

Dated: January 18, 2008

s/Raymond L. Erickson
Raymond L. Erickson
CHIEF U.S. MAGISTRATE JUDGE

NOTICE

Pursuant to Rule 6(a), Federal Rules of Civil Procedure, D. Minn. LR1.1(f), and D. Minn. LR72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties **by no later than February 4, 2008**, a writing which specifically identifies those portions of the Report to which objections are made and the bases of those objections. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals.

If the consideration of the objections requires a review of a transcript of a Hearing, then the party making the objections shall timely order and file a complete transcript of that Hearing **by no later than February 4, 2008**, unless all interested parties stipulate that the District Court is not required by Title 28 U.S.C. §636 to review the transcript in order to resolve all of the objections made.